



Environmental Planning and Assessment Amendment (Part 3A Repeal) Regulation 2011

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

BRAD HAZZARD, MP
Minister for Planning and Infrastructure

Explanatory note

The object of this Regulation is to make provision for the purposes of the commencement of the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011* (including revised savings and transitional provisions in proposed Schedule 6A to the *Environmental Planning and Assessment Act 1979*).

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 89G, 115ZM, 157 (the general regulation-making power), clause 1 of Schedule 6 and clause 10 of Schedule 6A.

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Clause 1

Environmental Planning and Assessment Amendment (Part 3A Repeal)
Regulation 2011

**Environmental Planning and Assessment Amendment
(Part 3A Repeal) Regulation 2011**

under the

Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Regulation 2011*.

2 Commencement

This Regulation commences on the repeal of Part 3A of the *Environmental Planning and Assessment Act 1979* and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Environmental Planning and Assessment Act 1979 No 203

[1] Schedule 6A Transitional arrangements—repeal of Part 3A

Omit clauses 1 and 2. Insert instead:

1 Definitions

(1) In this Schedule:

environmental assessment requirements means:

- (a) environmental assessment requirements for approval to carry out a project, or for approval of a concept plan for a project, notified to the proponent of the project under Part 3A (as modified from time to time under that Part), or
- (b) environmental assessment requirements accepted by the Director-General as environmental assessment requirements for approval to carry out a project, or for approval of a concept plan for a project, under clause 8J of the *Environmental Planning and Assessment Regulation 2000*,

but does not include draft environmental assessment requirements.

Part 3A project or concept plan application means an application under Part 3A for approval to carry out a project (or part of a project) or for approval of a concept plan for a project.

relevant Part 3A repeal date means:

- (a) the date on which Part 3A is repealed, except as provided by paragraph (b), or
- (b) in the case of a project to which clause 17 (1) of *State Environmental Planning Policy (Major Development) 2005* applies—8 April 2011.

transitional Part 3A project—see clause 2.

(2) Words and expressions used in this Schedule have the same meaning as they had in Part 3A immediately before its repeal.

2 Transitional Part 3A projects

(1) The following are, subject to this Schedule, *transitional Part 3A projects*:

- (a) an approved project (whether approved before or after the repeal of Part 3A),

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- (b) a project for which environmental assessment requirements for approval to carry out the project, or for approval of a concept plan for the project, were notified or adopted before the relevant Part 3A repeal date.
- (2) A project is not, or ceases to be, a transitional Part 3A project under subclause (1) (b) if the environmental assessment for approval to carry out the project, or for approval of a concept plan for the project, has not been duly submitted under Part 3A within the following period:
 - (a) 2 years after the last of the environmental assessment requirements concerned were notified or adopted if that 2-year period ended before the relevant Part 3A repeal date,
 - (b) if paragraph (a) does not apply—2 years after the repeal of Part 3A or within such further period or periods as the Director-General may allow by notice in writing to the proponent.

If the environmental assessment requirements concerned are expressed to expire at a particular time, those requirements continue and do not expire at that time.

- (3) A project that is a transitional Part 3A project only because environmental assessment requirements were notified or adopted for approval of a concept plan for the project ceases to be a transitional Part 3A project when a determination is made to approve or not approve the concept plan.
- (4) A transitional Part 3A project includes a part of a project if:
 - (a) that part of the project was the subject of a separate application for approval to carry out that part of the project, and
 - (b) that part of the project meets the criteria under this clause for a transitional Part 3A project.
- (5) A transitional Part 3A project extends to the project as varied by changes to the Part 3A project or concept plan application, to the concept plan approval or to the project approval, whether made before or after the repeal of Part 3A.

[2] Schedule 6A, clause 3 (1)

Omit the subclause. Insert instead:

- (1) Part 3A of this Act (as in force immediately before the repeal of that Part and as modified under this Schedule after that repeal)

continues to apply to and in respect of a transitional Part 3A project.

[3] Schedule 6A, clause 3 (2)

Insert “or for the purposes of” after “under” in clause 3 (2) (a).

[4] Schedule 6A, clause 3 (3A)

Insert after clause 3 (3):

- (3A) This clause applies to and in respect of a transitional Part 3A project even if the declaration of the development as a project to which Part 3A applies (or as a critical infrastructure project) has been revoked.

[5] Schedule 6A, clause 3 (4)

Omit “if the development”. Insert instead “to the extent that the development”.

[6] Schedule 6A, clause 3A

Insert after clause 3:

3A Special provisions in relation to development subject to concept plans

- (1) This clause applies to development:
- (a) for which a concept plan has been approved under Part 3A (before or after the repeal of Part 3A), but which is not an approved project, and
 - (b) that was but ceases to be a transitional Part 3A project (or that ceased to be a Part 3A project as referred to in clause 2 (4)), and
 - (c) that is not State significant infrastructure.

This clause applies even if the declaration of the development as a project to which Part 3A applies has been revoked.

- (2) The following provisions apply to development to which this clause applies:
- (a) the development is taken to be development that may be carried out with development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),
 - (b) any development standard that is within the terms of the approval of the concept plan has effect,

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- (c) a consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan,
 - (d) a consent authority may grant consent under Part 4 for the development without complying with any requirement under any environmental planning instrument relating to a master plan,
 - (e) the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan,
 - (f) an order or direction under section 75P (2) has no effect to the extent to which it is inconsistent with the terms of the approval of the concept plan.
- (3) Despite development to which this clause applies ceasing to be a transitional Part 3A project, the concept plan may be modified as if the development had remained a transitional Part 3A project.
- (4) Section 75P (1) (c) of Part 3A does not apply to enable the grant of approval to carry out a project without further application or assessment:
- (a) when a concept plan is approved for development that then ceases to be a transitional Part 3A project and becomes development to which this clause applies, or
 - (b) when a concept plan for any such development is modified.

[7] Schedule 6A, clause 5 (4) (b)

Omit the paragraph.

[8] Schedule 6A, clause 5 (4) (c)

Insert “, any response to submissions, any preferred project report by a proponent” after “public exhibition” where firstly occurring.

[9] Schedule 6A, clause 5 (4) (c)

Insert “, a response to submissions, a preferred infrastructure report by a proponent” after “public exhibition” where secondly occurring.

[10] Schedule 6A, clause 6 (1)

Omit “Part 3A project application”. Insert instead “Part 3A project or concept plan application”.

[11] Schedule 6A, clause 6 (2) (b)

Insert “, any response to submissions by a proponent” after “public exhibition” where firstly occurring.

[12] Schedule 6A, clause 6 (2) (b)

Insert “, a response to submissions by an applicant” after “public exhibition” where secondly occurring.

[13] Schedule 6A, clause 8

Omit the clause.

[14] Schedule 6A, clauses 11–18

Insert after clause 10:

11 Lapsing of Part 3A approvals

- (1) An approval for a transitional Part 3A project lapses on the day that is 5 years after the repeal of Part 3A unless:
 - (a) the project is physically commenced (within the meaning of section 95) on the land to which the approval relates on or before that day, or
 - (b) the approval of the project is subject to a condition in force under section 75Y of Part 3A that provides for the approval to lapse on an earlier or later day.
- (2) Despite subclause (1), an approval for a transitional Part 3A project that authorises the use of any land, building or work does not lapse if that use is actually commenced before the date on which the approval would otherwise lapse.

12 Continuing application of Part 3A to modifications of certain development consents

Section 75W of Part 3A continues to apply to modifications of the development consents referred to in clause 8J (8) of the *Environmental Planning and Assessment Regulation 2000*, and so applies whether an application for modification is made before or after the commencement of this clause.

13 Application of amendments to existing development applications

The amendments made to this Act by Schedule 1.2 [16], [18], [19], [25] and [26] to the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011* do not apply to or in respect of a development application lodged on or before the commencement of the amendment concerned.

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14 Joint regional planning panels and matters previously determined by such panels

Section 23G (4A), as inserted by Schedule 1.5 [2] to the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011*, does not apply to proceedings commenced by or against a joint regional planning panel before the commencement of that amendment.

15 Matters determined by joint regional planning panels

- (1) A council is the consent authority for a development application for development on land within the area of the council if:
 - (a) the development application was made but not determined before the commencement of Schedule 4A and a regional panel was exercising the consent authority functions of the council when the application was made, and
 - (b) the regional panel ceased to exercise those functions on the commencement of that Schedule.
- (2) An application (whether made before or after the commencement of Schedule 4A) for modification of a development application for development for which a regional panel ceased to exercise the consent authority functions of a council on that commencement is to be determined by that council.
- (3) Despite subclause (1), the applicable regional panel continues to exercise the consent authority functions of a council for the following development applications (but not for the modification of those development applications):
 - (a) a development application for development that has a capital investment value of more than \$10 million if the development application was made, but not determined by the panel, before the commencement of Schedule 4A,
 - (b) a development application for development referred to in clause 13B (1) (f) of the *State Environmental Planning Policy (Major Development) 2005*, if the development application was made, but not determined by the panel, before the commencement of Schedule 4A,
 - (c) the first stage of a staged development application for development referred to in clause 13G of the *State Environmental Planning Policy (Major Development) 2005*, if the development application was made, but not determined by the panel, before the commencement of Schedule 4A.

16 Sydney Opera House—continuation of heritage provisions

If development in connection with the Opera House is declared to be State significant development or State significant infrastructure, clause 90 of Schedule 6 continues to apply as if references in that clause to provisions of Part 3A were references to the corresponding provisions relating to State significant development or State significant infrastructure.

17 Planning Assessment Commission

- (1) The amendments made to section 23D of this Act by Schedule 1.4 to the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011* do not affect any review under that section that was requested by the Minister before the commencement of those amendments.
- (2) The amendment made to clause 5 (3) of Schedule 3 to this Act by Schedule 1.4 [7] to the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011* extends to persons who were appointed as members before the commencement of that amendment.

18 Joint Regional Planning Panels

The amendment made to clause 2 of Schedule 4 to the Act by Schedule 1.5 [4] to the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011* does not apply to or in respect of the appointment or reappointment of a person who was the chairperson of a regional panel immediately before the commencement of that amendment.

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[1] Clause 3 Definitions

Omit “or 112” from the definition of *environmental impact statement* in clause 3 (1).

Insert instead “, 112 or 115Y”.

[2] Clause 3 (1), definition of “relevant submission period”

Omit paragraph (d).

[3] Clause 3 (1), definition of “State significant advertised development”

Omit the definition.

[4] Clause 5 Advertised development

Insert “or State significant development” after “designated development” in clause 5 (1).

[5] Clause 5 (1) (a) and (3)

Omit the provisions.

[6] Clause 5 (1) (b)

Omit “State significant advertised development,”.

[7] Clause 5 (1) (c)

Omit “(not being State significant advertised development)”.

[8] Part 1A, heading

Omit “Major”. Insert instead “Transitional Part 3A”.

[9] Clause 8G Public information about documents relating to projects

Insert “or reports by the Planning Assessment Commission where a public hearing has been held” after “Commission” in clause 8G (4) (e).

[10] Clause 8J Transitional provisions

Omit “Part 3A of the Act does not” from clause 8J (4).

Insert instead “Parts 3A and 5.1 and Division 4.1 of Part 4 of the Act do not”.

[11] Clause 8J (7), note

Insert after clause 8J (7):

Note. The references to State significant development in this subclause refer to the meaning that term had before the commencement of Part 3A and not to its current meaning.

[12] Clause 49 Persons who can make development applications

Omit clause 49 (2). Insert instead:

- (2) Subclause (1) (b) does not require the consent in writing of the owner of the land for a development application made by a public authority or for a development application for public notification development if the applicant instead gives notice of the application:
 - (a) by written notice to the owner of the land before the application is made, or
 - (b) by advertisement published in a newspaper circulating in the area in which the development is to be carried out no later than 14 days after the application is made.

[13] Clause 49 (4) and (5)

Omit clause 49 (4). Insert instead:

- (4) Subclause (3) does not require the consent of the Crown if the development application is for State significant development made by a public authority or public notification development.
- (5) In this clause:

public authority includes an irrigation corporation within the meaning of the *Water Management Act 2000* that the Minister administering that Act has, by order in writing, declared to have the status of a public authority for the purposes of this clause in relation to development of a kind specified in the order.

public notification development means:

 - (i) State significant development set out in clause 5 (Mining) or 6 (Petroleum (oil and gas)) of Schedule 1 to *State Environmental Planning Policy (State and Regional Development) 2011* but it does not include development to the extent that it is carried out on land that is a state conservation area reserved under the *National Parks and Wildlife Act 1974*, or
 - (ii) State significant development on land with multiple owners designated by the Director-General for the

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purposes of this clause by notice in writing to the applicant
for the State significant development.

[14] **Clause 51 Rejection of development applications**

Insert at the end of clause 51 (2) (b):

, or

- (c) being an application referred to in section 78A (8A) of the Act, the application is not accompanied by an environmental impact statement referred to in that subsection.

Note. Schedule 2 sets out requirements in relation to environmental impact statements.

[15] **Clause 52 Withdrawal of development applications**

Omit “section 79 (6)” from clause 52 (2).

Insert instead “sections 79 (6) and 89F (4)”.

[16] **Clause 56 Extracts of development applications to be publicly available**

Omit “designated” from clause 56 (1).

Insert instead “State significant development, designated development”.

[17] **Part 6, Division 4 and Part 14, Divisions 2 and 4**

Omit the Divisions.

[18] **Part 6, Division 6**

Omit the Division. Insert instead:

Division 6 Public participation—State significant development

82 Application of Division

This Division applies to State significant development.

83 Public exhibition period

For the purposes of section 89F (1) (a) of the Act, the minimum submission period is to be 30 days.

84 Public notice of application

- (1) For the purposes of section 89F (1) (b) of the Act, the notice of the application must be published in a local newspaper and on the website of the Department.

- (2) For the purposes of section 89F (1) (b) of the Act, the notice of the application must be given:
- (a) to such persons that appear to the Director-General to own or occupy the land adjoining the land to which the application relates (unless the notice is in respect of an application for public notification development within the meaning of clause 49), and
 - (b) to such public authorities that, in the opinion of the Director-General, may have an interest in the determination of the application.
- (3) For the purposes of this clause:
- (a) if land is a lot within the meaning of the *Strata Schemes (Freehold Development) Act 1973*, a notice to the owners corporation is taken to be notice to the owner or occupier of each lot within the strata scheme, and
 - (b) if land is a lot within the meaning of the *Strata Schemes (Leasehold Development) Act 1986*, a notice to the lessor under the leasehold strata scheme concerned and to the owners corporation is taken to be notice to the owner or occupier of each lot within the strata scheme, and
 - (c) if land is owned or occupied by more than one person, a notice to one owner or one occupier is taken to be notice to all the owners and occupiers of that land.

85 Content of notice

For the purposes of section 89F (1) (b) of the Act, a notice of an application for State significant development must contain the following information:

- (a) a description (including the address) of the land on which the development is proposed to be carried out,
- (b) the name of the applicant and of the consent authority,
- (c) a description of the proposed development,
- (d) the dates of the submission period,
- (e) a statement that the development application and the documents accompanying the application may be inspected during the submission period:
 - (i) at the Department's principal office, and
 - (ii) at the council's principal office,during the relevant authority's ordinary office hours,

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- (f) a statement that:
 - (i) any person during the submission period may make written submissions to the Minister concerning the development application, and
 - (ii) if a submission is made by way of objection, the grounds of objection must be specified in the submission,
- (g) whether the Minister has directed that a public hearing should be held.

85A Responding to submissions

- (1) The Director-General is to provide to an applicant for State significant development the submissions, or a summary of the submissions, received in relation to the application during the submission period.
- (2) The Director-General may, by notice in writing, require the applicant to provide a written response to such issues raised in those submissions as the Director-General considers necessary.

85B Documents to be made publicly available

For the purposes of section 89G (d) of the Act, the Director-General is to make the following documents (that relate to a development application for State significant development) available on the Department's website and in such other locations as the Director-General determines:

- (a) the environmental assessment requirements,
- (b) the development application, including any accompanying documents or information and any amendments made to the development application,
- (c) any submissions received during the submission period and any response provided under clause 85A,
- (d) any environmental assessment report prepared by the Director-General,
- (e) any development consent or modification to a development consent,
- (f) any application made for a modification to development consent, including any accompanying documents or information,
- (g) any documents or information provided to the Director-General by the applicant in response to submissions.

[19] Clause 86 Application of Division

Omit “clause 26F of *Newcastle Local Environmental Plan 1987*” from clause 86 (2).

Insert instead “clause 36 of *Newcastle Local Environmental Plan 2003*”.

[20] Clause 100 Notice of determination

Omit “a review of” from clause 100 (1) (h).

Insert instead “a public hearing in respect of”.

[21] Clause 113 Applications taken to be refused

Insert “the *deemed refusal period*, being” after “within” in clause 113 (1).

[22] Clause 113 (1) (a)

Insert “or (c)” after “paragraph (b)”.

[23] Clause 113 (1) (c)

Insert at the end of clause 113 (1) (b):

, or

(c) 90 days, in the case of State significant development.

[24] Clause 113 (2)

Omit “40-day and 60-day periods are”.

Insert instead “deemed refusal period is”.

[25] Clause 113 (2) (b)

Insert “(with or without a public hearing)” after “review”.

[26] Clause 113 (2) (b)

Omit “that is not designated development”.

Insert instead “other than development the subject of a development application to which section 97 of the Act does not apply”.

[27] Clause 113 (3)

Omit “60-day period”. Insert instead “deemed refusal period”.

[28] Clause 113 (5)–(7)

Insert after clause 113 (4):

(5) In the case of State significant development for which the relevant submission period exceeds 30 days, the deemed refusal

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period is to be increased by that part of the submission period that exceeds 30 days, despite subclause (1).

- (6) If the relevant submission period for a development application for State significant development is more than 30 days, the Minister is to notify the applicant of the period and the effect of the extension of the period on the operation of this Division for the purposes of section 82 of the Act.
- (7) In the case of State significant development, any day that occurs between the date of the Director-General's request for a written response to submissions under clause 85A and the date on which that response is provided to the Director-General is not to be taken into consideration in calculating the number of days in the deemed refusal period.

[29] Clause 113, note

Omit the note to clause 113. Insert instead:

Note. This clause does not apply in respect of a development application if section 97 of the Act does not apply to the application.

[30] Clause 115 Application for modification of development consent

Insert after clause 115 (1):

- (2) The notification requirements of clause 49 apply in respect of an application if the consent of the owner of the land would not be required were the application an application for development consent rather than an application for the modification of such consent.

[31] Clause 115

Renumber clause 115 (1A)–(3) as 115 (3)–(10), respectively.

[32] Clause 115 (4) (as renumbered by item [31])

Omit “subclause (1A)”. Insert instead “subclause (3)”.

[33] Clause 115 (5) (as renumbered by item [31])

Insert “but not if the application is for modification of a development consent for State significant development” after “panel”.

[34] Clause 115 (7) (as renumbered by item [31])

Omit “subclause (1C)”. Insert instead “subclause (6)”.

[35] Clause 115 (9) (as renumbered by item [31])

Omit the subclause. Insert instead:

- (9) The application must be accompanied by the relevant fee prescribed under Part 15.

[36] Clause 116

Omit the clause. Insert instead:

116 Modification of consent granted by Court

A copy of an application for the modification of a development consent granted by the Court is not to be lodged with the Court, but with the consent authority that dealt with the original development application from which that consent arose.

[37] Clause 117 Modification of consent involving minimal environmental impact

Insert after clause 117 (3A):

- (3B) Subclauses (2)–(3A) do not apply if the application to which this clause applies is in respect of State significant development.

[38] Clause 118 Applications under sections 96 (2) and 96AA for modification of certain development consents

Omit “advertised” from clause 118 (1) (b).

[39] Part 6, Division 15

Insert after Division 14:

Division 15 Calling in development as State significant development**124E Advice of Planning Assessment Commission**

- (1) In providing its advice under section 89C (3) of the Act, the Planning Assessment Commission is to consider any general issues relating to State or regional planning significance that the Minister has requested the Commission to consider.
- (2) If the Minister considers that the advice of the Commission does not adequately address any such issue, the Minister may request the Commission to reconsider the issue.
- (3) Nothing in this clause affects the validity of any advice given or decision made under section 89C (3) of the Act.

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124F Calling in existing development applications

- (1) This clause applies to development that is declared to be State significant development by order of the Minister under section 89C (3) of the Act and which is the subject of a development application made and not finally determined before that declaration.
- (2) On making the declaration, the Minister may in writing direct the relevant consent authority:
 - (a) to complete any steps in relation to the development application, and
 - (b) to forward to the Minister the development application and any other relevant documents and information in relation to the development, and
 - (c) to pay to the Director-General a specified proportion of any fees paid in relation to the development application, and
 - (d) to notify the applicant, relevant authorities and any other persons or classes of persons specified in the direction that the Minister is now the consent authority for the development.
- (3) On the making of the declaration:
 - (a) the development application is taken to be a development application for State significant development, and
 - (b) any amount payable under clauses 256F–256L in relation to the development is to be reduced by the amount (if any) payable to the Director-General under subclause (2) (c), and
 - (c) any steps taken by the relevant consent authority in respect of the development application are taken to be steps taken by the Director-General or the Minister in relation to the application for State significant development.

[40] Clause 149A Certifying authority may require additional information

Omit “proposed building work” from clause 149A (1).

Insert instead “building to which the application relates (including any work that may have been carried out on the building)”.

[41] Part 10

Insert after Part 9:

Part 10 State significant infrastructure

191 Interpretation

- (1) Words and expressions used in this Part have the same meaning as they have in Part 5.1 of the Act.
- (2) For the purposes of the definition of *infrastructure* in section 115T of the Act, if a single proposed development comprises development that is only partly infrastructure, the remainder of the development (for whatever purposes) is also infrastructure.

192 Applications for approval

- (1) An application for approval of the Minister to carry out State significant infrastructure must include:
 - (a) details of any approvals that would, but for section 115ZG of the Act, be required for the carrying out of the State significant infrastructure, and
 - (b) details of any authorisations that must be given under section 115ZH of the Act if the application is approved, and
 - (c) a statement as to the basis on which the proposed infrastructure is State significant infrastructure including, if relevant, the capital investment value of the proposed infrastructure.
- (2) An application may, with the approval of the Director-General, be amended at any time before the application is determined.
- (3) The Director-General is not to approve any such amendment unless satisfied that written particulars have been provided that sufficiently identify the nature of any proposed amendments to the State significant infrastructure.

193 Owner's consent or notification

(1) **Consent of land owner**

The consent of the owner of the land on which State significant infrastructure is to be carried out is required for an infrastructure

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application or modification request unless the application or request relates to any of the following:

- (a) State significant infrastructure proposed to be carried out by a proponent that is a public authority,
- (b) critical State significant infrastructure,
- (c) State significant infrastructure comprising any one or more of the following:
 - (i) linear transport infrastructure,
 - (ii) utility infrastructure,
 - (iii) infrastructure on land with multiple owners designated by the Director-General for the purposes of this clause by notice in writing to the person making the application or request.

(2) Consent may be obtained at any time before the determination of the application or request.

(3) The consent of the New South Wales Aboriginal Land Council is required for an infrastructure application or modification request relating to land owned by a Local Aboriginal Land Council if the application requires the consent of the Local Aboriginal Land Council as owner of the land.

(4) **Notification if consent not required**

If the consent of the owner of the land is not required for an infrastructure application or modification request under this clause, the proponent is required to give notice of the application or request:

- (a) by written notice to the owner of the land before, or no later than 14 days after, the application or request is made, or
- (b) by advertisement published in a newspaper circulating in the area in which the infrastructure is to be carried out:
 - (i) in the case of an infrastructure application—at least 14 days before the environmental impact statement that relates to the infrastructure is placed on public exhibition, or
 - (ii) in the case of a modification request—no later than 14 days after the request is made.

(5) In this clause:

modification request means a request under section 115ZI of the Act for the modification of the Minister's approval.

194 Minimum exhibition period

For the purposes of section 115Z (3) of the Act, the minimum exhibition period is 30 days.

195 Director-General's environmental assessment report

- (1) The Director-General is to complete the report under section 115ZA of the Act in relation to State significant infrastructure within 90 days after the end of the public exhibition period for the environmental impact statement to which the report relates.
- (2) The 90-day period does not include time during which the Director-General, after having issued a requirement to the proponent under section 115Z (6), is awaiting a response or a preferred infrastructure report.

196 Publicly available documents

- (1) For the purposes of section 115ZL (1) of the Act, the documents are to be made publicly available on the Department's website or by providing, on that website, an electronic link to the document on another website.
- (2) For the purposes of section 115ZL (1) (i) of the Act, submissions made under section 115Z or the report of the issues raised in those submissions provided under section 115Z (5), are prescribed.

197 Surrender of approvals or existing use rights

- (1) For the purposes of section 115ZL (4) of the Act, a surrender of an approval for State significant infrastructure or of a right conferred by Division 10 of Part 4 of the Act is to be made by giving to the Director-General a notice in writing of the surrender of the approval or right.
- (2) The notice must contain the following information:
 - (a) the name and address of the person by whom the notice is given,
 - (b) the address, and formal particulars of title, of the land to which the approval or right relates,
 - (c) a description of the approval or right to be surrendered,
 - (d) if the person giving notice is not the owner of the land, a statement by the owner of the land to the effect that the owner consents to the surrender of the approval or right.
- (3) A duly signed and delivered notice of surrender of an approval or right conferred by Division 10 of Part 4 of the Act takes effect on

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the date determined by the Director-General and operates, according to its terms, to surrender the approval or right to which it relates.

198 **Erection and occupation of buildings and subdivision of land**

- (1) In this clause, a *relevant provision* means section 81A, section 109M or any other provision of the Act relating to the issue of subdivision certificates.
- (2) For the purposes of section 115ZF (5) of the Act, a relevant provision applies to approved State significant infrastructure (other than critical State significant infrastructure) in the same way as it applies to development subject to a development consent, subject to any necessary modifications. For that purpose, a reference in Part 4A of the Act to a development consent is taken to include a reference to an approval of State significant infrastructure under Part 5.1 of the Act.
- (3) However, a relevant provision:
 - (a) does not apply unless that provision would have applied if this Part did not apply to the State significant infrastructure, and
 - (b) applies to critical State significant infrastructure only if the Minister, when giving approval to the infrastructure under Part 5.1 of the Act, makes it a condition of that approval that the provision applies.

[42] **Clause 244D Definitions**

Insert “(ACN 081 455 754)” after “Ltd” in the definition of *ARTC*.

[43] **Clause 244D**

Omit the definitions of *rail infrastructure facilities* and *wetlands affected activity*.

Insert instead:

rail infrastructure facilities has the same meaning as it has in Division 15 of Part 3 of *State Environmental Planning Policy (Infrastructure) 2007*.

[44] **Clause 244F Approved Code**

Insert “, or development that is a Part 3A project” after “environmental impact statement” in clause 244F (1A).

[45] Clauses 244G, 244H and 244J

Omit the clauses.

[46] Part 15 Fees and charges

Omit “under Part 3A” from the heading to Division 1A.

Insert instead “for transitional Part 3A projects”.

[47] Part 15, Division 1, heading

Insert “(other than for State significant development)” after “applications”.

[48] Clauses 246A and 246B

Renumber clauses 245AA and 246 as 246A and 246B respectively.

[49] Clause 246

Insert before clause 246A as renumbered by item [48]:

246 Definition

In this Division:

development application does not include a development application for State significant development.

[50] Clause 256A Proportion of development application fees to be remitted to Director-General

Omit “clause 246” from clause 256A (1). Insert instead “clause 246B”.

[51] Clause 256A (1) and (1A)

Omit “clause 245AA” wherever occurring. Insert instead “clause 246A”.

[52] Part 15, Division 1AA

Insert after Division 1:

Division 1AA Fees for State significant development and State significant infrastructure**256C Definition**

In this Division:

application means a development application for State significant development or an application for approval of State significant infrastructure.

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256D Determination of fees payable for application

- (1) The fee for an application is to be determined by the Director-General and is not to exceed the total maximum fee determined in accordance with the provisions of this Division relating to any such application.
- (2) If two or more fees are applicable to a single application (such as an application relating to the subdivision of land and the erection of a building on one or more lots created by the subdivision), the maximum fee payable is the sum of those fees.
- (3) The total maximum fee payable for a staged application is the maximum fee that would otherwise be payable if only a single application were required for all the development or for all the State significant infrastructure, as the case may be.

256E Determination of fees after application is made

- (1) The determination of a fee to accompany an application for State significant development or State significant infrastructure must be made before, or within 14 days after, the application is lodged with the consent authority.
- (2) A determination made after the lodging of an application has no effect until notice of the determination is given to the applicant.
- (3) The Minister may refuse to consider an application for which a fee has been duly determined and notified to the applicant but remains unpaid.

256F Maximum fee—buildings, works or demolition (other than marinas or extractive industries)

- (1) The maximum fee for an application involving the erection of a building, the carrying out of a work or the demolition of a work or a building, and having an estimated cost within the range specified in the Table to this clause is calculated in accordance with that Table.
- (2) The fees determined under this clause do not apply to development or infrastructure for which a fee is payable under clause 256G or 256H.

Table	
Estimated cost	Maximum fee payable
Up to \$5,000	\$750.
\$5,001–\$50,000	\$750, plus an additional \$23.33 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$5,000.
\$50,001–\$100,000	\$1,800, plus an additional \$70.00 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$50,000.
\$100,001–\$200,000	\$5,300, plus an additional \$4.50 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$100,000.
\$200,001–\$500,000	\$5,750, plus an additional \$5.83 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$200,000.
\$500,001–\$1,000,000	\$7,500, plus an additional \$5.00 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$500,000.
\$1,000,001–\$2,000,000	\$10,000, plus an additional \$1.00 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$1,000,000.
\$2,000,001–\$3,000,000	\$11,000, plus an additional \$0.50 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$2,000,000.
\$3,000,001–\$4,000,000	\$11,500, plus an additional \$0.70 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$3,000,000.
\$4,000,001–\$5,000,000	\$12,200, plus an additional \$0.80 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$4,000,000.
\$5,000,001–\$8,000,000	\$13,000, plus an additional \$1.00 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$5,000,000.
\$8,000,001–\$9,000,000	\$16,000, plus an additional \$1.50 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$8,000,000.
\$9,000,001–\$10,000,000	\$17,500, plus an additional \$2.50 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$9,000,000.

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Estimated cost	Maximum fee payable
\$10,000,001–\$50,000,000	\$20,000, plus an additional \$1.00 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$10,000,000.
\$50,000,001–\$100,000,000	\$60,000, plus an additional \$0.60 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$50,000,000.
\$100,000,001–\$200,000,000	\$90,000, plus an additional \$0.50 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$100,000,000.
\$200,000,001–\$300,000,000	\$140,000, plus an additional \$0.35 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$200,000,000.
\$300,000,001–\$400,000,000	\$175,000, plus an additional \$0.81 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$300,000,000.
More than \$400,000,000	\$256,000, plus an additional \$0.64 for each \$1,000 (or part of \$1,000) by which the estimated cost exceeds \$400,000,000.

256G Maximum fee—marinas

- (1) The maximum fee payable for an application involving the erection of a building or the carrying out of work for the purposes of a marina is \$5,660, plus \$565 for each vessel that can be moored, berthed or stored at fixed or floating berths, at freestanding moorings, alongside jetties or pontoons, within dry storage stacks or on cradles in hardstand areas.
- (2) In the case of an application involving the extension of an existing marina, the number of vessels referred to in subclause (1) is to be calculated on the basis of the additional number of vessels that can be moored, berthed or stored as a result of the extension of the marina.
- (3) In this clause, a *vessel* does not include a dinghy or other small craft.

256H Maximum fee—extractive industries

- (1) The maximum fee payable for an application involving extractive industry (not being mining) is the sum of the following:
 - (a) \$5,660, plus \$0.06 for each tonne of material that is to be extracted annually,

- (b) if the application involves the erection of a building—the maximum fee calculated in accordance with clause 256F in relation to the erection of a building.
- (2) For the purposes of subclause (1), the Director-General is to determine the weight of material that is to be extracted annually by reference to a genuine estimate of the average annual weight of material intended to be extracted.

256I Maximum fee—subdivision of land

- (1) The maximum fee payable for an application involving the subdivision of land is as follows:
 - (a) subdivision (other than minor subdivision and strata subdivision)—\$5,660, plus \$340 for each hectare (or part of a hectare) of the land being subdivided, up to a maximum of \$34,000,
 - (b) minor subdivision—\$850,
 - (c) strata subdivision—\$850.
- (2) In this clause, *minor subdivision* means subdivision for the purpose only of any one or more of the following:
 - (a) widening a public road,
 - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
 - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
 - (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (e) rectifying an encroachment on a lot,
 - (f) creating a public reserve,
 - (g) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public conveniences.

256J Additional fee for critical State significant infrastructure

- (1) The maximum additional fee payable for an application in respect of critical State significant infrastructure is \$50,000.
- (2) If State significant infrastructure is declared to be critical State significant infrastructure after the fee for the State significant infrastructure application is paid or due for payment, the

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additional fee under this clause is payable within 14 days after the Director-General notifies the proponent that the additional fee is payable.

256K Additional fee for making environmental impact statement publicly available

In addition to any other fees payable under this Division, the maximum fee payable for an application includes a maximum fee of \$2,830 for making an environmental impact statement in relation to the application publicly available under section 89F (1) or 115Z (3) of the Act.

256L Additional fee for planning reform

- (1) In addition to any other fees payable under this Division, the maximum fee payable for an application includes (if the estimated cost of the development or infrastructure exceeds \$50,000) a maximum fee for the services to which this clause applies, calculated as follows:

$$P = \frac{0.64 \times E}{1,000}$$

where:

P represents the amount payable, expressed in dollars rounded down to the nearest dollar.

E represents the estimated cost of the development or infrastructure, expressed in dollars rounded up to the nearest thousand dollars.

- (2) This clause applies to the following services:
- (a) the monitoring and reviewing by the Director-General of the practices and procedures followed by consent authorities in dealing with applications:
 - (i) for the purpose of assessing the efficiency and effectiveness of those practices and procedures, and
 - (ii) for the purpose of ensuring that those practices and procedures comply with the provisions of the Act and this Regulation,
 - (b) the monitoring and reviewing by the Director-General of the provisions of environmental planning instruments:
 - (i) that control development or infrastructure, or
 - (ii) that are required to be taken into consideration by consent authorities when dealing with applications,

for the purposes of assessing the effectiveness of those provisions in achieving their intended effect and making recommendations for their improvement,

- (c) the operational expenses of the Building Professionals Board established under the *Building Professionals Act 2005*.

256M Fees for modifications

- (1) The fee payable for consideration of an application or request for modification of any of the following is to be determined by the Director-General in accordance with this clause:
- (a) a consent granted by the Minister for State significant development, or
- (b) an approval of the Minister for State significant infrastructure.
- (2) The maximum fee is \$850 for:
- (a) an application under section 96 (1) of the Act, or
- (b) a request under section 115ZI of the Act, if the Director-General considers that the modification will relate only to a minor matter such as a minor error, a misdescription or a miscalculation (but not a modification referred to in subclause (3) (b)).
- (3) The maximum fee is \$5,000 for:
- (a) an application under section 96 (1A) of the Act, or
- (b) a request under section 115ZI of the Act, if the Director-General considers that the modification will involve minor environmental assessment.
- (4) The maximum fee in any other case is whichever is the greater of:
- (a) 50% of the fee paid for the application or request in respect of the development or infrastructure that is proposed to be modified, or
- (b) \$5,000.
- (5) If there is public notice of an application or request for modification (other than public notice on the website of the Department), an additional fee of \$2,830 is payable.
- (6) The fee payable under this clause is payable by the person making the application or request and must be paid within 14 days after the Director-General notifies that person of the amount of the fee.

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- (7) The Minister may refuse to consider any such application or request if the fee remains unpaid.

256N Fee for public hearing by Planning Assessment Commission

- (1) The fee payable to the Director-General in respect of a public hearing by the Planning Assessment Commission pursuant to section 23D (1) (b) (iii) of the Act in respect of an application is to be determined by the Director-General in accordance with this clause.
- (2) The fee is \$56,600, plus an additional amount (being the estimated costs of the Commission undertaking the public hearing) of not more than \$56,600.
- (3) A fee is not payable under this clause if the Director-General determines that a fee is not appropriate in the circumstances of the case.
- (4) The fee payable under this clause is payable by the person making the application to which the hearing relates and must be paid within 14 days after the Director-General notifies the person of the amount of the fee.

256O Fee for planning proposal with application

- (1) The fee payable for considering a proposed environmental planning instrument in conjunction with an application under section 89E (5) of the Act is \$22,650 plus an additional fee of \$1,130 for each hectare (or part of a hectare) of the area of the proposed development site.
- (2) The fee is payable by the person making the application within 14 days after the Director-General notifies the person of the fee payable.

256P Meaning of “estimated cost” for determining fee under this Division

- (1) In determining the fee in relation to an application involving the erection of a building, the Director-General must make his or her determination by reference to a genuine estimate of the capital investment value of the application.
- (2) In determining the fee in relation to an application involving the carrying out of a work, the Director-General must make his or her determination by reference to a genuine estimate of the construction costs of the work.
- (3) In determining the fee in relation to an application involving the demolition of a building or work, the Director-General must

make his or her determination by reference to a genuine estimate of the costs of demolition.

- (4) In determining the fee in relation to a staged application, the Director-General may make any necessary assumptions about the detail of the future stages of the development or infrastructure.

[53] Clause 258 Fee for application for modification of consent for local development

Omit “clause 115 (1A)” from clause 258 (2A). Insert instead “clause 115 (3)”.

[54] Clause 266 Council to keep certain documents relating to development applications and consents

Omit clause 266 (1) (e).

[55] Clause 268O

Omit the clause. Insert instead:

268O Definitions

In this Division:

public hearing means a public hearing under clause 268R (1).

review of the Commission includes a reference to a public hearing.

[56] Clause 268Q Public hearings—attendance of witnesses and production of documents

Omit clause 268Q (1). Insert instead:

- (1) The chairperson of the Commission may, if a public hearing is to be held in relation to a review conducted by the Commission, require a person:
- (a) to attend the public hearing to give evidence, or
 - (b) to produce to the Commission a document that is relevant to the review,
- at a time, date and place specified in a notice given to the person.

[57] Clause 268R Public hearings of Commission

Insert “and in no other circumstances” after “circumstances” in clause 268R (1).

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[58] Clause 268R (1) (a) and (a1)

Omit clause 268R (1) (a). Insert instead:

- (a) if requested to do so in writing by the Minister under section 23D (1) (b) (iii) of the Act,
- (a1) if the Minister has determined that a public hearing is to be held into a matter by the Planning Assessment Commission under section 56 (2) (e) of the Act and the Commission has been notified of the determination,

[59] Clause 268R (4) (d)

Insert after clause 268R (4) (c):

- (d) if the public hearing relates to a development application, a statement setting out the effect that the public hearing will have on any appeal rights in relation to the development application.

[60] Clause 284 Penalty notice offences

Insert “or 147 (3)” after “109J (1) (a), (b), (e), (f) or (g), or (2) (a)” in clause 284 (4) (a).

[61] Schedule 1 Forms

Insert “or from which concurrence would have been required but for section 79B (2A) or 89J” after “carried out” in clause 1 (1) (f).

[62] Schedule 1, clause 1 (1) (g1)

Insert after clause 1 (1) (g):

- (g1) in the case of State significant development, a list of any authorisations that must be provided under section 89K of the Act in relation to the development,

[63] Schedule 1, clause 1 (1) (h1)

Insert after clause 1 (1) (h):

- (h1) in the case of State significant development, the capital investment value of the development,

[64] Schedule 1, clause 1 (1) (i)

Omit the paragraph. Insert instead:

- (i) evidence that the owner of the land on which the development is to be carried out consents to the application, but only if the application is made by a person

other than the owner and the owner's consent is required
by this Regulation,

[65] Schedule 1, clause 2 (1) (c) and (e)

Insert "or State significant development" after "designated development"
wherever occurring.

[66] Schedule 1, clause 2 (1) (f)

Insert ", but not if the development application is for State significant
development" after "habitats)".

[67] Schedule 1, clause 2 (5)

Insert "or an environmental impact statement in respect of State significant
development" after "subclause (1) (c)".

[68] Schedule 2

Omit the Schedule. Insert instead:

Schedule 2 Environmental impact statements

Part 1 Definitions

1 Definitions

In this Schedule:

environmental assessment requirements means the
requirements of the Director-General under Part 2.

infrastructure means State significant infrastructure.

responsible authority means the relevant consent authority or
determining authority or, in the case of State significant
infrastructure, the Minister.

responsible person means the applicant or proponent responsible
for preparing an environmental impact statement.

Part 2 Requirements of Director-General and approval bodies

2 Application of Part

This Part applies to an environmental impact statement prepared
under section 78A (8) or (8A) or 112 of the Act.

3 Environmental assessment requirements

- (1) Before preparing an environmental impact statement, the responsible person must make a written application to the Director-General for the environmental assessment requirements with respect to the proposed statement.
- (2) The application is to be in a form approved by the Director-General and must include particulars of the location, nature and scale of the development or activity.
- (3) The Director-General may require the responsible person to provide further particulars.
- (4) In preparing the environmental assessment requirements with respect to an application for State significant development, the Director-General must consult relevant public authorities and have regard to the need for the requirements to assess any key issues raised by those public authorities.
- (5) The Director-General is to notify the responsible person and (where relevant) the responsible authority in writing within the required time of the environmental assessment requirements. The Director-General may modify those requirements by further notice in writing.
- (6) The Director-General may impose environmental assessment requirements by reference to specified publications.
- (7) If the development application or application for approval to which the environmental impact statement relates is not made within 2 years after notice is last given under subclause (5), the responsible person must consult further with the Director-General in relation to the preparation of the statement.
- (8) The responsible person must ensure that an environmental impact statement complies with any environmental assessment requirements that have been provided in writing to the person in accordance with this clause.
- (9) The Director-General may at any time waive (unconditionally or subject to conditions) the requirement for an application under this clause in relation to any particular development or activity or any particular class or description of development or activity other than the following:
 - (a) integrated development,
 - (b) State significant development that, but for section 89J of the Act, would require an authorisation specified in that section,

- (c) State significant development in respect of which an authorisation (other than a consent under section 138 of the *Roads Act 1993*) must be given under section 89K of the Act,
 - (d) State significant development that is:
 - (i) on land that is, or is a part of, critical habitat, or
 - (ii) likely to significantly affect threatened species, populations or ecological communities, or their habitats.
- (10) In this clause, **required time** means:
- (a) within 28 days after the application is made under subclause (1), or
 - (b) if the Director-General has requested further particulars, within 28 days after those particulars have been provided to the Director-General, or
 - (c) within such further time as is agreed between the Director-General and the applicant.

4 Integrated development—requirements of approval bodies

- (1) An application for environmental assessment requirements must, in the case of a development application for integrated development, also include particulars of the approvals that are required.
- (2) Following any such application, the Director-General must request, in writing, each relevant approval body to provide the Director-General with that approval body's requirements in relation to the environmental impact statement.
- (3) The Director-General is to notify an approval body of the environmental assessment requirements and of any modification to those requirements but only if the approval body has provided the Director-General with written notice of its requirements within 14 days after receipt of the Director-General's request under subclause (2).
- (4) If the approval body's requirements have not been provided within that time, the Director-General must inform the responsible person in writing and the responsible person:
 - (a) must apply to the approval body for its requirements in relation to the environmental impact statement, and
 - (b) in completing the environmental impact statement must have regard to those requirements if they are provided to the responsible person.

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- (5) In this clause:
approval body's requirements means the approval body's requirements in relation to an environmental impact statement for the purpose of its decision concerning the general terms of the approval in relation to the development (including whether or not it will grant an approval).

Part 3 General provisions

5 Application of Part

This Part applies to an environmental impact statement prepared under section 78A (8) or (8A), 112 or 115Y (2) of the Act.

6 Form of environmental impact statement

An environmental impact statement must contain the following information:

- (a) the name, address and professional qualifications of the person by whom the statement is prepared,
- (b) the name and address of the responsible person,
- (c) the address of the land:
 - (i) in respect of which the development application is to be made, or
 - (ii) on which the activity or infrastructure to which the statement relates is to be carried out,
- (d) a description of the development, activity or infrastructure to which the statement relates,
- (e) an assessment by the person by whom the statement is prepared of the environmental impact of the development, activity or infrastructure to which the statement relates, dealing with the matters referred to in this Schedule,
- (f) a declaration by the person by whom the statement is prepared to the effect that:
 - (i) the statement has been prepared in accordance with this Schedule, and
 - (ii) the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure to which the statement relates, and
 - (iii) that the information contained in the statement is neither false nor misleading.

7 Content of environmental impact statement

- (1) An environmental impact statement must also include each of the following:
 - (a) a summary of the environmental impact statement,
 - (b) a statement of the objectives of the development, activity or infrastructure,
 - (c) an analysis of any feasible alternatives to the carrying out of the development, activity or infrastructure, having regard to its objectives, including the consequences of not carrying out the development, activity or infrastructure,
 - (d) an analysis of the development, activity or infrastructure, including:
 - (i) a full description of the development, activity or infrastructure, and
 - (ii) a general description of the environment likely to be affected by the development, activity or infrastructure, together with a detailed description of those aspects of the environment that are likely to be significantly affected, and
 - (iii) the likely impact on the environment of the development, activity or infrastructure, and
 - (iv) a full description of the measures proposed to mitigate any adverse effects of the development, activity or infrastructure on the environment, and
 - (v) a list of any approvals that must be obtained under any other Act or law before the development, activity or infrastructure may lawfully be carried out,
 - (e) a compilation (in a single section of the environmental impact statement) of the measures referred to in item (d) (iv),
 - (f) the reasons justifying the carrying out of the development, activity or infrastructure in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development set out in subclause (4).
- (2) Subclause (1) is subject to the environmental assessment requirements that relate to the environmental impact statement.

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- (3) Subclause (1) does not apply if:
 - (a) the Director-General has waived (under clause 3 (9)) the need for an application for environmental assessment requirements in relation to an environmental impact statement in respect of State significant development, and
 - (b) the conditions of that waiver specify that the environmental impact statement must instead comply with requirements set out or referred to in those conditions.
- (4) The principles of ecologically sustainable development are as follows:
 - (a) the *precautionary principle*, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:
 - (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and
 - (ii) an assessment of the risk-weighted consequences of various options,
 - (b) *inter-generational equity*, namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,
 - (c) *conservation of biological diversity and ecological integrity*, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,
 - (d) *improved valuation, pricing and incentive mechanisms*, namely, that environmental factors should be included in the valuation of assets and services, such as:
 - (i) polluter pays, that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,
 - (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,

- (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

8 Sale of copies of environmental impact statement

A responsible authority:

- (a) may sell copies of an environmental impact statement to any member of the public for not more than \$25 per copy, and
- (b) must pay the proceeds of any sale to the responsible person, and
- (c) must return to the responsible person any unsold copies of the environmental impact statement.

9 Documents forming part of environmental impact statement

- (1) Any document adopted or referred to by an environmental impact statement is taken to form part of the statement.
- (2) Nothing in this Schedule requires the responsible person to supply any person with a document that is publicly available.

10 Responsible authority may require additional copies

The responsible authority may require a responsible person to give it as many additional copies of an environmental impact statement as are reasonably required for the purposes of the Act.

Part 4 Special provisions for State significant infrastructure

11 Application of Part

This Part applies to environmental assessment requirements and environmental impact statements under Division 2 of Part 5.1 of the Act.

2011 No 510

Environmental Planning and Assessment Amendment (Part 3A Repeal)
Regulation 2011

Schedule 2 Amendment of Environmental Planning and Assessment Regulation 2000

12 **Environmental assessment requirements for State significant infrastructure**

In preparing the environmental assessment requirements with respect to an application for State significant infrastructure, the Director-General:

- (a) may require the responsible person to provide further particulars, and
- (b) may impose environmental assessment requirements by reference to specified publications.

13 **Environmental impact statement in approved form**

An environmental impact statement that is prepared in accordance with Part 3 is taken to be in a form approved by the Director-General unless the Director-General has notified the responsible person in writing that the environmental impact statement is to be in a different form.

14 **Environmental impact statement submitted 2 years after requirements notified**

If an environmental impact statement is not submitted to the Director-General under section 115Z of the Act within 2 years after notice is last given under section 115Y (4) of the Act, the responsible person must consult further with the Director-General in relation to the preparation of the statement.

[69] **Schedule 3 Designated development**

Insert after clause 35:

Note. Development referred to in this clause is not designated development for the purposes of section 77A of the Act. This means that section 98 of the Act (Appeal by an objector) will not extend to any such development even if it is State significant development.

[70] **Schedule 5 Penalty notice offences**

Insert in order of section number in Columns 1 and 2 respectively under the heading “**Offences under the Act**”:

Section 125 (1) of the Act in relation to contravention of section 147 (3), (4) or (5)	\$1,500 for an individual \$3,000 for a corporation
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[71] Schedule 7 Savings and transitional provisions

Insert after Part 3:

**Part 4 Provisions consequent on making of
Environmental Planning and Assessment
Amendment (Part 3A Repeal) Regulation
2011**

26 Definition

In this Part:

amending regulation means the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Regulation 2011*.

27 General savings

This Regulation as in force immediately before its amendment by the amending regulation continues to apply to the following:

- (a) the determination of a development application made under Part 4 of the Act but not finally determined before the commencement of the amending Regulation,
- (b) the modification of a development application under Part 4 of the Act where the application for the modification has been made but not finally determined before the commencement of the amending Regulation,
- (c) the preparation or exhibition of an environmental impact statement if requirements of the Director-General were issued under clause 73 or 231 in respect of an environmental impact statement before the commencement of the amending Regulation.

28 Notice of determination of development application

The amendment made to clause 100 by the amending regulation does not apply in respect of a development application if, before the commencement of that amendment, the Minister had requested the Planning Assessment Commission to conduct a review in respect of the development application.

29 Deemed refusal of development applications

The amendments made to clause 113 (1) (a)–(c) by the amending regulation do not apply in respect of a development application that was made but not finally determined before the commencement of those amendments.

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Regulation 2011

Schedule 2 Amendment of Environmental Planning and Assessment Regulation 2000

30 Planning Assessment Commission

The amendments made to Division 4 of Part 16B by the amending regulation do not apply to a review or public hearing requested by the Minister before the commencement of those amendments.